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Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

| | | |
|--------------------------------|---|------------------------------------|
| In the Matter of: |) | CRMLA LICENSE NO.: 413-0766 |
| |) | |
| THE COMMISSIONER OF BUSINESS |) | STATEMENT OF FACTS IN SUPPORT OF |
| OVERSIGHT, |) | ORDER TO DISCONTINUE VIOLATION |
| |) | PURSUANT TO FINANCIAL CODE |
| Complainant, |) | SECTION 50321 AND NOTICE OF INTENT |
| |) | TO MAKE ORDER FINAL |
| v. |) | |
| |) | |
| SUN AMERICAN MORTGAGE COMPANY, |) | |
| |) | |
| Respondent. |) | |
| |) | |
| |) | |

The Complainant, the Commissioner of Business Oversight (Commissioner) of the Department of Business Oversight (Department), is informed and believes, and based upon such information and belief, alleges and charges Sun American Mortgage Company (Sun American) as follows:

1. Sun American is a residential mortgage lender and servicer licensed by the Commissioner pursuant to the California Residential Mortgage Lending Act, commencing at Fin. Code § 50000 *et seq.* (CRMLA).

2. Sun American’s principal place of business is located at 4140 East Baseline Road, Suite 206, Mesa, Arizona 85206.

3. On or around October 31, 2017, the Commissioner commenced a regulatory examination of the books and records of Sun American pursuant to Section 50302 of the CRMLA (2018 Regulatory Exam).

4. The 2018 Regulatory Exam disclosed that Sun American commingled operating funds with trust account funds by maintaining excess funds in the trust account as of September 30, 2017, in the amount of \$1,000.00, in violation of Financial Code section 50202, subdivision (b).

5. In or around May 2018, Sun American corrected the overage of \$1,000.00 that was found as of September 30, 2017.

6. The 2018 Regulatory Exam also disclosed that in eight out of 14 loan files reviewed, Sun American failed to refer applicants solely to the Department as the contact agency if an applicant had any questions about their rights or wished to file a complaint, and instead provided an applicant with one of three different versions of the Fair Lending Notice, as follows: (1) referring them to the California Bureau of Real Estate; (2) referring them to the Department; or (3) failing to reference any contact agency at all, in violation of Financial Code section 50204, subdivision (i), California Code of Regulations, title 21, section 7114, and Health and Safety Code section 35830.

7. By reason of the foregoing, Sun American has violated the following provisions of the CRMLA:

- a. Financial Code section 50202, subdivision (b);
- b. Financial Code section 50204, subdivision (i);
- c. California Code of Regulations, title 21, section 7114; and
- d. Health and Safety Code section 35830.

8. Financial Code section 50321 provides:

If, after investigation, the commissioner has reasonable grounds to believe that any licensee has violated its articles of incorporation or any law or rule binding upon it, the commissioner shall, by written order addressed to the licensee, direct the discontinuance of the violation. The order shall be effective immediately, but shall not become final except in accordance with the provisions of Section 50323.

1 9. Financial Code section 50323 provides:

2 (a) No order issued pursuant to Section 50321 or 50322 may become final
3 except after notice to the affected licensee of the commissioner's intention
4 to make the order final and of the reasons for the finding. The
5 commissioner shall also notify the licensee that upon receiving a request
6 the matter will be set for hearing to commence within 15 business days
7 after receipt. The licensee may consent to have the hearing commence at a
8 later date. If no hearing is requested within 30 days after the mailing or
9 service of the required notice, and none is ordered by the commissioner,
10 the order may become final without hearing and the licensee shall
11 immediately discontinue the practices named in the order. If a hearing is
12 requested or ordered, it shall be held in accordance with the provisions of
13 the Administrative Procedure Act (Chapter 5 (commencing with Section
14 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the
15 commissioner shall have all of the powers granted under that act. If, upon
16 the hearing, it appears to the commissioner that the licensee is conducting
17 business in an unsafe and injurious manner or is violating its articles of
18 incorporation or any law of this state, or any rule binding upon it, the
19 commissioner shall make the order of discontinuance final and the
20 licensee shall immediately discontinue the practices named in the order.

21 (b) The licensee has 10 days after an order is made final to commence an
22 action to restrain enforcement of the order. If the enforcement of the order
23 is not enjoined within 10 days by the court in which the action is brought,
24 the licensee shall comply with the order.

25 WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue
26 Violations Pursuant to Financial Code Section 50321 and notifying Sun American Mortgage
27 Company of her intent to make the order final.

28 Dated: January 3, 2019
 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
SOPHIA C. KIM
Senior Counsel
Enforcement Division